

“(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the state of the domestic fruit and vegetable industry. In conducting such study, the Secretary of Agriculture shall consult with such agencies or departments, as determined necessary by the Secretary of Agriculture, including the Environmental Protection Agency, the Department of Health and Human Services, the Department of Commerce, the Department of Labor, and the Department of Education.

“(2) CONTENTS.—The study conducted under paragraph (1) shall include—

“(A) a review of the availability of an adequate labor supply for maintaining and harvesting of fruits and vegetables;

“(B) a review of the availability of crop insurance or disaster assistance for fruit and vegetable producers;

“(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post harvest protection, and other scientific developments related to the production and marketing of fruits and vegetables;

“(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables, and an evaluation of the value of national uniformity to both consumers and producers;

“(E) a review of the requirements and cost of labeling fruits and vegetables in the industry, and the benefits that would result from the labeling of such products; and

“(F) a review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

“(b) REPORT.—Not later than 18 months after the date of enactment of this title [Nov. 28, 1990], the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of the study described in subsection (a). Such report shall include—

“(1) the recommendations of the Secretary concerning the manner in which producers of domestic fruit and vegetable commodities that are not receiving assistance under the programs that provide market enhancement assistance (such as the export enhancement program under subtitle B of title XI of the Food Security Act of 1985 (7 U.S.C. 1736p et seq.) to producers of domestic fruit and vegetable commodities, could participate in such programs; and

“(2) the recommendations to the Secretary concerning the establishment of additional programs of the type described in paragraph (1) to assist producers of domestic fruit and vegetable commodities in increasing their production and in expanding domestic and foreign markets for the products of such producers.

“SEC. 1305. COUNTRY OF ORIGIN LABELING PROGRAMS.

“(a) GROWN IN THE U.S. PROGRAM.—The Secretary of Agriculture (hereafter referred to in this section as the ‘Secretary’) shall implement a program defining the conditions under which non-perishable agricultural products may be designated as ‘grown in the U.S.’.

“(b) PILOT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall implement a 2-year pilot program during which time perishable agricultural products (fresh fruits and vegetables) are labeled or marked as to their country of origin. This program shall be conducted nationwide. After the 2-year period, the Secretary shall conduct a study to determine the results of the program. The Secretary shall submit to the Congress the results of the study within 18 months from the date of completion of the program.

“(2) DETAILS OF THE PILOT PROGRAM.—

“(A) DESIGNATION OF COUNTRY OF ORIGIN.—The program shall require that the country of origin of

perishable agricultural products be indicated on any such products or on the package, display, holding unit, or bin by means of a label, stamp, mark, placard, or other clear and visible indication at the point of sale by any commission merchant, dealer, broker, or grocer. A sign near the products shall be an acceptable indication of the country of origin.

“(B) APPLICATION OF PROGRAM.—

“(i) IMPORTED AND DOMESTIC PRODUCTS.—The program shall apply to imported and domestic perishable agricultural products (including fresh fruits and vegetables).

“(ii) IMPORTED PERISHABLE AGRICULTURAL PRODUCTS.—The labeling program shall apply to imported perishable agricultural products that enter the United States marked as to the country of origin and that are in compliance with section 304(a) of the Tariff Act of 1930 [19 U.S.C. 1304(a)].

“(C) EXEMPTIONS.—The Secretary may provide for exemptions for products that are exempted, under section 304(a)(3)(J) of the Tariff Act of 1930, from the country of origin marking requirements of that Act [19 U.S.C. 1202 et seq.].

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”

POTATO DEALERS

Section 1(b) of Pub. L. 95-562 provided in part that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under par. (6) of this section as amended by section 1(b) of Pub. L. 95-562 until Jan. 1, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 499b-1 of this title; title 31 section 3903.

§ 499b. Unfair conduct

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce:

(1) For any commission merchant, dealer, or broker to engage in or use any unfair, unreasonable, discriminatory, or deceptive practice in connection with the weighing, counting, or in any way determining the quantity of any perishable agricultural commodity received, bought, sold, shipped, or handled in interstate or foreign commerce.

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought, sold, or consigned in interstate or foreign commerce by such dealer.

(3) For any commission merchant to discard, dump, or destroy without reasonable cause, any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce.

(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity

to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction; or to fail to maintain the trust as required under section 499e(c) of this title. However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.

(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce. However, any commission merchant, dealer, or broker who has violated—

(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant;

and pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed \$2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts. A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced.

(7) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce.

(June 10, 1930, ch. 436, §2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§2, 3, 48 Stat. 585; June 19, 1936, ch. 602, §1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§2-4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July 30, 1956, ch. 786, §1, 70 Stat. 726; Pub. L. 93-369,

Aug. 10, 1974, 88 Stat. 423; Pub. L. 97-352, §1, Oct. 18, 1982, 96 Stat. 1667; Pub. L. 98-273, §2, May 7, 1984, 98 Stat. 166; Pub. L. 104-48, §§9(b), 10, Nov. 15, 1995, 109 Stat. 430.)

CODIFICATION

Section was formerly classified to section 552 of this title.

AMENDMENTS

1995—Pub. L. 104-48, §9(b)(1), substituted “commerce” for “commerce—” in introductory provisions.

Pars. (1) to (3). Pub. L. 104-48, §9(b)(2), substituted period for semicolon at end.

Par. (4). Pub. L. 104-48, §9(b)(2), (3), substituted period for semicolon after “section 499e(c) of this title” and inserted at end “However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.”

Par. (5). Pub. L. 104-48, §§9(b)(2), 10, substituted “foreign commerce. However,” for “foreign commerce: *Provided*, That”, substituted period for semicolon after “miscellaneous receipts”, and inserted at end “A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.”

Par. (6). Pub. L. 104-48, §9(b)(2), substituted period for semicolon at end.

1984—Par. (4). Pub. L. 98-273 inserted “or to fail to maintain the trust as required under section 499e(c) of this title:”.

1982—Par. (5). Pub. L. 97-352 substituted “*Provided*, That any commission merchant, dealer, or broker who has violated (A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or (B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant; and pay, in the case of a violation under either clause (A) or (B) of this paragraph,” for “*Provided*, That any commission merchant, dealer, or broker who has violated this paragraph may, with the consent of the Secretary, admit the violation or violations and pay”.

1974—Par. (5). Pub. L. 93-369 inserted proviso for consent admission of violations, payment of monetary penalty not in excess of \$2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

1956—Par. (5). Act July 30, 1956, struck out “for a fraudulent purpose” after “broker”, and included misrepresentation of region of origin.

1942—Par. (4). Act Apr. 6, 1942, inserted “and make full payment” and “or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction”.

1940—Par. (1). Act June 29, 1940, §3, among other changes, inserted “dealer” after “merchant”.

Par. (5). Act June 29, 1940, inserted “quantity, size, pack, weight” after “quality”.

1937—Par. (5). Act Aug. 20, 1937, §2, among other changes, inserted “mark, stencil, label, statement” after “act” and “the character, kind, grade, quality, condition, degree of maturity” after “or deed”.

Par. (6). Act Aug. 20, 1937, §3, inserted “or in compliance with any Federal or State law or regulation” after “inspector”.

Par. (7). Act Aug. 20, 1937, §4, added par. (7).

1936—Par. (4). Act June 17, 1936, struck out “or concerning the condition of the market for” after “involving”.

1934—Par. (2). Act Apr. 13, 1934, §2, inserted “or consigned” after “sold”.

Par. (4). Act Apr. 13, 1934, §3, substituted “in connection with any transaction involving or concerning” for “concerning the condition, quality, quantity or disposition of” and inserted “or consigned” after “contracted to be bought or sold”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499b-1, 499d, 499e, 499f, 499g, 499h, 499m of this title.

§ 499b-1. Products produced in distinct geographic areas

(a) In general

In the case of a perishable agricultural commodity (as defined under the Perishable Agricultural Commodity Act (7 U.S.C. 499a(4))—¹

(1) subject to a Federal marketing order under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.);

(2) traditionally identified as being produced in a distinct geographic area, State, or region; and

(3) the unique identity, based on such distinct geographic area, of which has been promoted with funds collected through producer contributions pursuant to such marketing order,

no person may use the unique name or geographical designation of such commodity to promote the sale of a similar commodity produced outside such area, State, or region.

(b) Penalties

A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act (7 U.S.C. 499b(4) and (5)).

(c) Reimbursement

A person bringing a complaint under this section shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of this section.

(d) Prohibition

The Secretary of Agriculture shall not increase any fees charged under the Perishable Agricultural Commodities Act [7 U.S.C. 499a et seq.] to offset costs associated with the operation of this section.

(e) Regulations

The Secretary shall promulgate regulations to carry out this section.

(Pub. L. 101-624, title XIII, §1309, Nov. 28, 1990, 104 Stat. 3562.)

REFERENCES IN TEXT

The Perishable Agricultural Commodity Act, and the Perishable Agricultural Commodities Act, referred to in subsecs. (a), (b), and (d), probably mean the Perishable Agricultural Commodities Act, 1930, act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to this chapter (§499a et seq.). For complete classification of this Act to the Code, see section 499a(a) of this title and Tables.

7 U.S.C. 499a(4), referred to in subsec. (a), was redesignated 7 U.S.C. 499a(b)(4) by Pub. L. 102-237, title X, §1011(1)(A), Dec. 13, 1991, 105 Stat. 1898.

The Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.), referred to in subsec. (a)(1), is act

June 3, 1937, ch. 296, 50 Stat. 246, as amended, which is classified principally to chapter 26A (§671 et seq.) of this title. For complete classification of this Act to the Code, see section 674 of this title and Tables. The Agricultural Marketing Agreement Act of 1937 reenacted and amended the Agricultural Adjustment Act, title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Perishable Agricultural Commodities Act, 1930 which comprises this chapter.

§ 499c. Licenses

(a) License required; penalties for violations

After December 10, 1930, no person shall at any time carry on the business of a commission merchant dealer, or broker without a license valid and effective at such time. Any person who violates any provision of this subsection shall be liable to a penalty of not more than \$1,000 for each such offense and not more than \$250 for each day it continues, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Any person violating this provision may, upon a showing satisfactory to the Secretary of Agriculture, or his authorized representative, that such violation was not willful but was due to inadvertence, be permitted by the Secretary, or such representative, to settle his liability in the matter by the payment of the fees due for the period covered by such violation and an additional sum, not in excess of \$250, to be fixed by the Secretary of Agriculture or his authorized representative. Such payment shall be deposited in the Treasury of the United States in the same manner as regular license fees.

(b) Application and fees for licenses

(1) Application for license

Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application and to be furnished thereafter.

(2) License fees

Upon the filing of an application under paragraph (1), the applicant shall pay such license fees, both individually and in the aggregate, as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U.S.C. 491-497). Thereafter, the licensee shall pay such license fees annually or at such longer interval as the Secretary may prescribe. The Secretary shall take due account of savings to the program when determining an appropriate interval for renewal of licenses. The Secretary shall establish and alter license fees only by rulemaking under section 553 of title 5, except that the Secretary may not alter the fees required under paragraph (3) or (4) for retailers and grocery wholesalers that are dealers. Ef-

¹ See References in Text note below.